

**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition for  
Reinstatement of Revoked Certificate

**SURESHCHANDRA SHAH, M.D.**

Physician's and Surgeon's  
Certificate No. A 34631

Respondent

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) File No. 20-2006-180107  
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**DECISION**

The attached **Proposed Decision** is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 9, 2008.

IT IS SO ORDERED March 10, 2008.

MEDICAL BOARD OF CALIFORNIA

By: 

Barbara Yaroslavsky  
Chair, Panel B  
Division of Medical Quality

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition  
for Reinstatement of the Revoked Certificate  
of:

OAH Case No. L2007110618

SURESHCHANDRA C. SHAH,

Physician and Surgeon Certificate No.  
A 34631,

Petitioner.

**PROPOSED DECISION**

Daniel Juárez, Administrative Law Judge, Office of Administrative Hearings, heard this matter on January 11 and 14, 2008, in Los Angeles, California.

Mark A. Levin, Esq., Lewin and Levin, represented Sureshchandra C. Shah (Petitioner).

Beth Faber Jacobs, Deputy Attorney General, represented the Attorney General of the State of California, pursuant to Government Code section 11522.

The record was closed, and the matter was submitted for decision on January 14, 2008.

**FACTUAL FINDINGS**

1. On or about November 2, 2006, Petitioner filed the Petition for Reinstatement, requesting reinstatement of his previously revoked physician and surgeon's certificate. Petitioner acknowledged that revocation was appropriate in light of his previous bad acts, but, he asserted he has changed his ways and rehabilitated himself to such a degree that it is now appropriate to reinstate his license. The Attorney General disagrees.

*Petitioner's Background and Certification*

2. Petitioner was born and raised in India. He attended medical school at Gujarat University and was licensed to practice medicine in India in 1974. He immigrated to the

United States in 1977. He completed a two-year residency in anesthesiology and pain management at Temple University Hospital in Philadelphia, Pennsylvania. The Board issued Petitioner physician and surgeon's certificate number A 34631 on October 23, 1979. From 1979 through 1983, Petitioner was a practicing anesthesiologist at Mercy Hospital in Wilkes-Barre, Pennsylvania. Petitioner then moved to California, continuing to practice as an anesthesiologist. In 1986, he founded a private pain clinic, called the Southwest Pain Control and Sports Therapy Center in Palm Desert, California. In 1991, Petitioner also established the Palm Desert Ambulatory Surgery Center and Palm Desert Urgent Care. He has hospital memberships at the John F. Kennedy (JFK) Memorial Hospital in Indio, California (where he was Chief of Anesthesia from 1985 to 1986), and the High Desert Medical Center in Yucca Valley, California. Petitioner is board certified in anesthesiology (1983) and the sub-specialty of pain management (1994).

### *The Revocation Proceeding*

3(a). In February 2000, an Administrative Law Judge (ALJ) with the Office of Administrative Hearings heard Petitioner's case, *In the Matter of the Accusation against Sureshchandra C. Shah, M.D.*, OAH case number L1998050441. The case involved three patients. The ALJ ruled that Petitioner's medical license should be revoked. The Board adopted the ALJ's Proposed Decision, and on May 24, 2000, the Board made effective its decision to revoke Petitioner's medical license.

3(b). In its Decision, the Board found that Petitioner had had sex with a patient (E.W.) and thus violated Business and Professions Code sections 726, 2234 (general unprofessional conduct), and 2234, subdivision (b) (gross negligence). The Board found that, in approximately March 1994, Petitioner had begun treating E.W. for severe neck and back pain, among other things. A sexual attraction developed in the course of their doctor-patient relationship, and in October 1994, Petitioner and E.W. engaged in sexual relations.

3(c). As to a second patient, J.W., the Board concluded Petitioner had violated Business and Professions Code sections 2234, subdivision (b) (gross negligence) and 2234, subdivision (c) (repeated negligent acts by excessively prescribing medications), and 725 (unprofessional conduct by excessive prescriptions). The Board found that, in August 1993, Petitioner began treating J.W. for back and shoulder pain. Petitioner failed to obtain a medical records release from J.W., and made no attempt to obtain J.W.'s medical records from her previous treating physician. Petitioner dispensed an opiod nasal spray to J.W., providing her the medication unlabeled, without any directions for use, dates of issuance, or the patient's or doctor's names. J.W. used the opiod spray, became addicted to the medication, and experienced adverse affects, including seizures. Petitioner ordered J.W. to discontinue all medications. Petitioner failed to refer J.W. for the reported seizure activity, nor did he recommend diagnostic testing. Without the benefit of J.W.'s medical and pharmaceutical history, Petitioner's dispensing of the opiod spray and his subsequent order to discontinue all medications produced a series of negative medical consequences that harmed the patient. The Board also found that Petitioner had violated Business and Professions Code sections 2234 (general unprofessional conduct), 4077 (required labeling for

dangerous drug prescriptions), and 4170 (conditions for dispensing drugs), as a consequence of the Petitioner's improper labeling and dispensing.

3(d). In the case of a third patient, D.R., the Board concluded Petitioner violated Business and Professions Code sections 2261 (unprofessional conduct by making false representations) and 2266 (failure to maintain adequate and accurate records) by preparing misleading medical records. The Board found that, in September 1992, Petitioner prepared a false medical report by copying the findings he had made in an earlier (August 1991) physical examination of D.R., into a September 1992 physical examination report.

4. Petitioner admits to committing the acts described in Factual Findings 3(b), 3(c), and 3(d) and he agrees that the revocation of his medical license was an appropriate penalty. However, at the time that he committed those acts, and for some time thereafter, Petitioner was not so forthright about his transgressions. Throughout the February 2000 administrative hearing, Petitioner denied having sexual relations with E.W. After the administrative hearing, Petitioner pursued an appeal of the Board's decision by writ of mandate in the Sacramento County Superior Court (case number 00CS00796). In support of his petition for a writ, Petitioner filed his own declaration, dated November 16, 2000, wherein he reasserted that he did not have sexual relations with E.W.

5. Earlier, in January 1995, Petitioner had filed legal actions against E.W., a Petition for Injunction Prohibiting Harassment and a Complaint for Damages in the Riverside County Superior Court. In those actions, Petitioner claimed E.W. was falsely stating she had had a sexual relationship with Petitioner and that E.W. had battered and defamed him.

6. At hearing, Petitioner acknowledged that his false representations in the administrative hearing, in his declaration in support of his writ petition, and in the litigation he initiated against E.W. were wrongful acts on his part.

7. As a consequence of his license revocation in California, the Pennsylvania State Medical Board pursuant to an administrative hearing on June 4, 2002, revoked Petitioner's Pennsylvania medical license, a license Petitioner had held since June 1981. Petitioner also held a Texas state medical license, issued in June 1981. That Texas license was canceled on June 6, 2003. The evidence did not establish whether the Texas license was revoked or whether it lapsed.

#### *Petitioner's On-Going Involvement with the Medical Clinics*

8(a). In approximately November 2000, after his license revocation, Petitioner, who had been looking for someone to take over his practice, hired Dr. Kenneth Bradley, an anesthesiologist, on a *locum tenens* basis, to work as a physician at the Southwest Pain Control and Sports Therapy Center. Dr. Bradley saw mostly patients complaining of spinal pain. However, Dr. Bradley left the position within approximately two months of his hire. Soon after beginning to work at the clinic, Dr. Bradley began experiencing conflicts with Petitioner. For example, as a general rule, Petitioner wanted Dr. Bradley to administer pain

blocks on the same day as a patient's office visit, but Dr. Bradley disagreed with this practice and refused. Dr. Bradley explained that some patients needed further work-up and other procedures before a pain block was indicated, and generally he was opposed to this practice because many patients would have likely eaten before coming to an office visit, and the administration of a pain block would risk complications of vomiting and worse. Dr. Bradley described Petitioner as being angry at Dr. Bradley's refusal to administer the pain blocks as Petitioner wanted. In the case of one particular patient, Dr. Bradley recalled that Petitioner became angry and chastised him for referring the patient to a neurosurgeon. Petitioner told Dr. Bradley that he (Dr. Bradley) should have administered a spinal block instead of referring the patient out. Dr. Bradley felt the referral was most appropriate. On another occasion, Petitioner became upset with Dr. Bradley when Dr. Bradley had thrown out a medication that, in Dr. Bradley's opinion, was likely expired. On January 3, 2001, Dr. Bradley decided to leave Petitioner's clinic because he felt he had no independent control over his patients' care. Dr. Bradley testified credibly.

8(b). Upon his leaving, Bradley argued with Petitioner that Petitioner owed him payment for approximately two days of employment. Petitioner's and Bradley's payment dispute continued for some time; the evidence did not establish conclusively when or whether that dispute was resolved.

9. At hearing, Petitioner denied Dr. Bradley's version of events and asserted that he never interfered in Dr. Bradley's practice of medicine. As discussed in Legal Conclusion 5, Petitioner's assertion was not credible.

10. In addition to his involvement in Dr. Bradley's practice, Petitioner also remained listed on clinic brochures after his license revocation. In November 2000, the Southwest Pain Control and Sports Therapy Center continued using and distributing a brochure that advertised the clinic and showed, under the heading of "Our Staff," the name of "S.C. Shah, M.D.," noting him to be a Diplomate of the American Board of Anesthesiology, the American Academy of Pain Medicine, and a member of the American Congress of Rehabilitation. Petitioner's name was crossed out in ink and "Kenneth Bradley M.D." was handwritten. In August 2002, the same clinic had the same brochure available to the public, but without Petitioner's name crossed out and without Dr. Bradley's name handwritten. At hearing, Petitioner agreed this should not have happened and that he should have taken more direct steps to remove the brochures from the clinic.

#### *The Insurance Fraud Conviction*

11. On May 2, 2003, following a guilty plea, the Riverside County Superior Court, in case number INF038910, convicted Petitioner of violating Penal Code section 550, subdivision (b)(1) (filing a fraudulent insurance claim), a felony.

12. The court sentenced Petitioner to three years of summary probation. The terms and conditions of probation included paying \$310 in fines and restitution, serving 50

hours of community service with the Meals on Wheels organization, and agreeing to obey all laws.

13. The facts underlying the conviction are that, from April 1996 to October 1999, Petitioner owned a restaurant in Rancho Mirage, California. In July 1996, the restaurant was burglarized. Among other things stolen, were oil paintings. Petitioner filed an insurance claim for reimbursement of the stolen items, including the oil paintings. Eventually, the insurance company paid Petitioner \$55,275, as reimbursement for the paintings. Around January 1999, the San Bernardino Police recovered Petitioner's stolen art and returned the art to Petitioner. Petitioner took possession of the art and kept the paintings in his home garage. Petitioner never notified the insurance company that he had recovered the paintings. Thereafter, the recovered art was damaged by a water leak in Petitioner's garage. Petitioner then filed a claim in April 2001 with another insurance company for the water damage to the artwork. The claim process uncovered the fact that Petitioner had kept both the \$55,275 insurance payment and the recovered artwork, and that Petitioner had never disclosed that the paintings had been recovered.

14. On May 24, 2006, pursuant to Petitioner's petition, the Riverside County Superior Court, in case number INF038910, ordered that the felony conviction be re-nominated as a misdemeanor, per Penal Code section 17, subdivision (b), and dismissed.

#### *Petitioner's Suicide Attempt*

15. On August 7, 2003, Petitioner attempted to kill himself. Petitioner cut his left wrist and stabbed himself in the upper left chest about five times with two steak knives and a pair of scissors. He also cut open his head by hitting himself with a 25-pound trophy. Consequently, Petitioner was placed on a psychiatric hold, pursuant to Welfare and Institutions Code section 5150, for 72 hours, and then released. Four days later, Petitioner was again committed to a psychiatric hold for 15 days and then released.

16. Petitioner explained that he was severely depressed and had been planning his suicide for about two weeks before his attempt.

#### *Petitioner's Psychiatric Care*

17. In October 2003, Dr. Richard I. Torban, a licensed and board-certified psychiatrist, began treating Petitioner. Since October 2003, Dr. Torban has seen Petitioner approximately every four to six weeks. Dr. Torban treated Petitioner with various antidepressant medications and recommended that he participate in simultaneous psychotherapy. Petitioner began seeing a psychologist, and Petitioner testified that the therapy has been useful in gaining insight into his actions, but Petitioner offered no evidence regarding the psychological therapy, other than his own testimony.

18. Dr. Torban evaluated Petitioner on October 4, 2006 and wrote a report of his findings. In his opinion, Petitioner has been free of acute psychiatric symptomatology since

June 22, 2006. He diagnosed Petitioner with “Major Depressive Disorder with Anxiety (with History of Psychotic Features—Remission).” Dr. Torban made no mention of Petitioner’s attempted suicide in his report, writing instead that, Petitioner “had no previous suicidal history.” Dr. Torban concluded that Petitioner was safe to practice medicine. Torban wrote, “I support [Petitioner’s] request for reinstatement of his physician’s license. I believe that he will be able to function at a high level (at his premorbid level) if permitted to do so by the Medical Board. I do not believe that he demonstrates any underlying psychopathology, sexual deviance, or character disorder which would compromise his ability to provide quality care to patients within his field of expertise.” Dr. Torban’s testimony echoed his written conclusions; he clarified that his treatment of Petitioner focused on Petitioner’s need for psychiatric medication and not on Petitioner’s psycho-therapeutic needs.

19. At hearing, Dr. Torban acknowledged that Petitioner, when discussing his revocation matter with him, had initially only told Dr. Torban about his sexual relationship with patient E.W., and failed to mention the two other patients, J.W. and D.R., until a later date. The evidence did not establish that date. Furthermore, Torban also acknowledged that, not until 2007, did Petitioner admit to an earlier sexual affair with a former office receptionist, a woman whom Petitioner also treated as a patient, in late 1994 to January 1995. When asked whether Petitioner’s lack of candor in these instances would change Dr. Torban’s diagnoses or opinions, Dr. Torban stated that those instances would not.

#### *Petitioner’s Ownership of the Medical Clinics*

20. Petitioner’s clinics, the Southwest Pain Control and Physical Therapy Center and the Palm Desert Ambulatory Surgery Center were structured as business corporations after Petitioner’s license revocation. The Southwest Pain clinic offered physical and occupational therapy and dispensed medication, while the Ambulatory Surgery Center offered invasive surgical procedures. Petitioner sold the Southwest Pain clinic in approximately March 2002, and closed the Ambulatory Surgery Center in approximately May 2003. Therefore, between May 24, 2000 and each clinics’ date of sale and/or closure, Petitioner owned and operated each clinic, though it is Petitioner’s contention that he did not practice medicine at either clinic after his license revocation.

21. In 2000, Petitioner sought the advice of an attorney specializing in health law, regarding his ownership of the clinics. Petitioner found an attorney who specialized in advising medical groups, surgery centers, and individual practitioners, among others, on organizational, operational, and regulatory matters. That attorney advised Petitioner that he was within the law to own and manage the clinics without a medical license. Petitioner’s attorney advised Petitioner to act solely as the landlord of the building, provide billing services, and deal only with what amounted to the businesses’ overhead. Petitioner’s attorney further advised him to not identify himself as a doctor in any way, and not be involved in the medical operations of the clinics. Petitioner’s attorney firmly believes Petitioner’s two clinics can be owned and managed by laypersons in complete accordance with the law.

22. On February 18, 2004, the Board filed a civil action against Petitioner claiming Petitioner illegally hired physicians to practice medicine in his clinics and was involved in the practice of medicine without a valid medical license. In the Riverside County Superior Court, in case number 407750, Petitioner and the Board stipulated and consented to the entry of a permanent injunction and final judgment, dated February 26, 2004. As part of that injunction and judgment, Petitioner, as himself and as S.C. Shah Management Company, Incorporated, without admitting the alleged facts or any liability, agreed, among other things, to be enjoined and restrained from engaging in the “unlicensed individual or corporate practice of medicine.” Petitioner further agreed, among other things, that unless or until Petitioner obtains his medical license, Petitioner could not hire a physician and surgeon, manage a medical practice or render any services to a medical practice or a physician and surgeon.

*Petitioner’s Continuing Medical Education*

23(a). Petitioner has earned continuing medical education category I credits since his revocation. On January 26, 2002, Petitioner took the Medical Ethics for Physicians course provided by the California Medical Association in Los Angeles, California, receiving a total of 7 credit hours. On April 1-3, 2002, Petitioner took the Physician Prescribing course through the Physician Assessment and Clinical Education program (PACE) at the University of California at San Diego, School of Medicine, receiving a total of 20.5 credit hours. Petitioner also took the PACE Medical Record Keeping course on April 4-5, 2002, receiving a total of 15 credit hours.

23(b). Petitioner earned 34 credit hours on October 11-15, 2003, at the annual meeting of the American Society of Anesthesiologists in San Francisco, California.

23(c). On January 19-23, 2004, Petitioner earned 20 credit hours for attending the annual meeting and an anesthesiology review course in Hawaii, presented by the California Society of Anesthesiologists. On October 23-27, 2004, Petitioner earned 29.75 credit hours at the annual meeting of the American Society of Anesthesiologists in Las Vegas, Nevada.

23(d). On February 24-27, 2005, Petitioner earned 32.25 credit hours at the annual meeting of the American Academy of Pain Medicine (AAPM) in Palm Springs, California. Petitioner also earned 26 credit hours from the American College of Medical Quality, for participating in a pain management delegation to Ho Chi Minh City, Vietnam, from November 7-17, 2005.

23(e). Petitioner earned 15 credit hours at a presentation on integrative pain medicine, given by the Columbia University College of Physicians and Surgeons in New York, New York, on April 15-16, 2006. Petitioner earned 8 credit hours on February 22, 2006 from the AAPM, at a presentation entitled, “Electrical Neuromodulation of the Spine and Associated Structures for the Treatment of Pain,” in San Diego, California. He also earned 17.5 credit hours on February 23-25, 2006, at the annual meeting of the AAPM, in San Diego, California. Additionally, Petitioner earned 12 credit hours from the AAPM at a



presentation entitled, "Essentials of Pain Medicine," in Newport Beach, California, given on June 24-25, 2006.

23(f). On February 7-10, 2007, Petitioner earned 17 credit hours from the AAPM at its annual meeting in New Orleans, Louisiana. Petitioner also earned 15 credit hours from Loma Linda University School of Medicine presentation on "Advances in Clinical Anesthetic Practice," on February 17-21, 2007, in Rancho Mirage, California.

#### *Petitioner's Charitable Work*

24. As part of the court's probation order in the insurance fraud case, Petitioner volunteered for Meals on Wheels, delivering food to elderly persons and persons with disabilities. Petitioner completed the required 50 hours timely but continued volunteering, completing 100 hours of service.

25. From 2003 to 2007, Petitioner has donated sizeable monetary gifts (approximately \$170,000 to \$200,000 per year) to a variety of charitable organizations, including the YMCA, the Braille Institute, the Big Brother/Big Sister program, and local charities in the greater Palm Springs area. He has also made significant donations of money, personal time, and needed medical equipment to communities in India and Vietnam during this same time.

#### *Petitioner's Self-Assessment*

26. Petitioner wrote the following in his Petition, "I accept full responsibility for my unacceptable behavior and can assure there is no chance of recurrence." Petitioner described his judgment and the thought processes as "gravely flawed," unjustified, and totally out of line. Petitioner expressed remorse and shame for having lied at the previous administrative and judicial hearings. Petitioner acknowledged the wrongful nature of his insurance fraud. Petitioner asserted that he would never have sex with a patient again. He explained that at the time of his transgressions, he was arrogant with success and took action to hide his acts because he was afraid of losing his license and having his infidelity exposed to his family. Petitioner also asserted he would never attempt to take his life again. Petitioner argued that his psychiatric and psychological treatment provided him the tools with which to understand why he acted as he did and that his charitable work, his PACE course work, and his efforts to remain up to date with medicine through his CME coursework are valid indicators that he has changed his ways. If reinstated, Petitioner wishes to establish a pain management clinic that would serve needy and disadvantaged residents of the greater Coachella Valley. One of Petitioner's daughters testified at hearing and described her love for her father. She described a sense of grave disappointment in Petitioner. Nonetheless, Petitioner's daughter described Petitioner as a supportive parent and a professional and personal role model for her. She is troubled by Petitioner's past actions, but believes Petitioner is a changed person and she supports his petition for reinstatement.

## LEGAL CONCLUSIONS

1. Cause does not exist to grant the Petition for Reinstatement, pursuant to Business and Professions Code section 2307, as set forth in Factual Findings 1-26, and Legal Conclusions 2-10.

2. Business and Professions Code section 2307 states in pertinent part:

(a) A person . . . whose certificate has been revoked . . . may petition the Division of Medical Quality for reinstatement.

(b) The person may file the petition after a period not less than the following minimum periods have elapsed from the effective date of the surrender of the certificate or the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license surrendered or revoked for unprofessional conduct.

[¶] . . . [¶]

(d) . . . The division may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the division . . . which shall be acted upon in accordance with Section 2335.

(e) . . . the administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

3. California Code of Regulations, title 16, section 1360.2 states in pertinent part:

When considering a petition for reinstatement of a license, certificate or permit holder . . . the division or panel shall evaluate evidence of rehabilitation submitted by the petitioner considering the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480.

(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsections (a) or (b).

[¶] . . . [¶]

(e) Evidence, if any, of rehabilitation submitted by the applicant.

4. Petitioner did not establish, by clear and convincing evidence to a reasonable certainty, that the public would be protected if his medical license were reinstated. Petitioner's multiple acts of dishonesty provided ample cause for concern that Petitioner may still practice medicine in an unsafe and dishonest manner. Petitioner's rehabilitative steps, while commendable, did not outweigh those concerns.

5. In the underlying revocation proceeding, Petitioner was found dishonest in creating a false medical report regarding patient D.R. Thereafter, Petitioner lied in three different circumstances. Petitioner lied at his administrative hearing. He lied in a superior court writ proceeding appealing his revocation. He then lied in his insurance dealings, committing fraud. While true that significant time has passed since these events occurred, between seven and eight years, these three instances reflect Petitioner's willingness to act dishonestly in the most serious of matters. These bad acts demonstrate Petitioner's lack of integrity in serious affairs and raise a reasonable question, whether Petitioner can practice medicine ethically. Furthermore, Petitioner's evidence of rehabilitation (discussed *infra* at Legal Conclusion 7) did not persuasively show Petitioner as a more honest or forthright person. Petitioner's credibility remains damaged by his earlier bad acts.

6(a). In addition to his dishonest acts, Petitioner, though unlicensed, nonetheless interfered with Dr. Bradley's medical practice and failed to ensure that his name and identification as a physician was removed from the clinics. Petitioner denied interfering with Dr. Bradley's practice, but Bradley, who testified credibly, had no real reason to falsify his testimony. In contrast, Petitioner's history of lying within legal proceedings tainted Petitioner's denial. Petitioner argued that the payment dispute with Bradley provided reason for Bradley to present biased, and impliedly false, testimony regarding Petitioner's interference with Bradley's medical practice. It is not reasonable to conclude that the payment dispute, involving only approximately two days of payment, provided sufficient motivation for Bradley to perjure himself in an administrative matter before the Board. Furthermore, Dr. Bradley testified credibly, giving reasonable factual details to the events he experienced.

6(b). Petitioner's failure to ensure that the clinic brochures did not bear Petitioner's name reflected Petitioner's inability to grasp the seriousness of his license revocation and a willingness to act in disregard of the law. This act of allowing the brochures, and Petitioner's involvement in Dr. Bradley's practice occurred between five and seven years ago. However, like the three dishonest acts discussed in Legal Conclusion 5, these additional acts reflect an ability to act without due regard for the public safeguards imposed after his

revocation. The time that has passed since he committed these acts is, therefore, tempered by the multiple acts Petitioner committed so soon after the Board had revoked his license.

7. Petitioner's evidence of rehabilitation is commendable and shows him to be on the road toward genuine change. His psychotherapy and his psychiatric care show Petitioner's willingness to deal with the underlying emotional reasons why Petitioner committed the acts that led him to his present predicament. However, he failed to present evidence from his psychologist regarding his psychotherapeutic progress. While Dr. Torban presented some evidence of Petitioner's psychiatric well being, Dr. Torban's opinions were of limited value (discussed in Legal Conclusion 8). Petitioner's PACE coursework and his effort to remain current through on-going continuing medical education, provided evidence of Petitioner's desire to practice medicine competently. Petitioner's years of sizeable monetary donations to worthy social causes, and his donations of personal time and medical equipment to India and Vietnam, and other domestic programs, also establish some level of personal contrition. However, these worthwhile activities, when juxtaposed with his earlier wrongful actions, do not outweigh the concerns raised by Petitioner's history of acting dishonestly. Petitioner's lack of general credibility lessened the weight that could be afforded his own testimony that he had indeed changed. Also, the testimony of Petitioner's daughter, while genuine and heartfelt, was insufficient to prove Petitioner was rehabilitated. It is also noted that Petitioner has only been free of the constraints of criminal probation since approximately May 2006; before this date, Petitioner's efforts to abide by the law were enforced (and at least partially motivated) by the courts. Thus, Petitioner's evidence of rehabilitation was insufficient to conclude at this time that Petitioner merited reinstatement of his license.

8. Though Petitioner's psychiatrist, Dr. Torban opined that Petitioner could practice medicine safely, Dr. Torban's opinion was made less compelling by several qualifications. First, Torban acknowledged that his view was focused more on Petitioner's medication needs than a psychological perspective. While Dr. Torban's opinion from his viewpoint is important, it fails to provide a complete picture of Petitioner's psychological progress. Given Petitioner's relevant history, the absence of that complete picture was salient. Second, Torban's opinions were less compelling once he testified that Petitioner's lack of candor (failing to disclose all of Petitioner's bad acts timely), would not alter his overall conclusions. Dr. Torban failed to adequately explain why Petitioner's lack of candor, given the dishonest acts at issue in this matter, would not have some impact on his opinion that Petitioner could practice medicine safely, even if Torban was nonetheless supportive of reinstatement. Lastly, Dr. Torban's assertion in his 2006 report, that Petitioner had no previous suicidal history, was contrary to Petitioner's 2003 suicide attempt. The absence of that significant information further lessened the weight of Dr. Torban's opinions.

9. Petitioner's evidence of rehabilitation was not enough to outweigh the multiple acts of dishonesty, even with the time that has passed since Petitioner's transgressions. It could not be concluded, by clear and convincing evidence to a reasonable certainty, that Petitioner has rehabilitated himself sufficiently so that if reinstated, the public would be

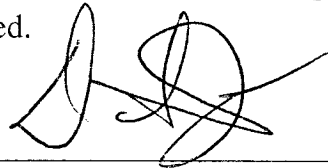
protected. Additional time without the constraint of criminal probation and with continuing acts of rehabilitation may prove otherwise in the future.

10. The Attorney General, citing case law and statutory provisions, argued that Petitioner was also involved in the corporate practice of medicine, by continuing to own and manage the medical clinics after his license revocation. The parties presented insufficient facts and legal argument to conclude whether Petitioner's ownership and management were in accordance with the law. That legal question requires more than what was provided in this proceeding. Moreover, a determination on that point was unnecessary to conclude whether Petitioner's reinstatement petition should be granted.

#### ORDER

The Petition of Sureshchandra C. Shah for reinstatement of his revoked physician and surgeon's certificate number A 34631 is denied.

Dated: February 11, 2008

A handwritten signature in black ink, appearing to read 'D. Juarez', is written over a horizontal line.

DANIEL JUAREZ  
Administrative Law Judge  
Office of Administrative Hearings